

Message Text

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TO AMEMBASSY MEXICO PRIORITY

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C O R R E C T E D C O P Y (PARA 2C, LINE OMITTED)

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SUBJECT: DEPARTMENT'S RESPONSE TO THE TWO AIDE MEMOIRES
WHICH WERE HANDED TO SECRETARY KISSINGER BY
FOREIGN MINISTER RABASA ON JANUARY 14,1975

1. THE EMBASSY IS REQUESTED TO TRANSMIT THE DEPARTMENT'S
RESPONSE TO THE AIDE MEMOIRE OF THE GOVERNMENT OF MEXICO
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ENTITLED "EXAMINATION OF THE RELEVANT PROVISIONS OF THE
TRADE REFORM ACT OF 1974 WHICH COULD AFFECT THE TRADE BE-
TWEEN MEXICO AND THE UNITED STATES".

A) QUOTE: THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHARES COMPLETELY THE VIEW OF THE GOVERNMENT OF MEXICO REGARDING THE IMPORTANCE OF TRADE AND TRADE RELATIONS BETWEEN THE UNITED STATES AND MEXICO. IN THIS REGARD, THE GOVERNMENT OF THE UNITED STATES IS MUCH ENCOURAGED BY THE PASSAGE OF THE TRADE ACT OF 1974, WHICH WE BELIEVE WILL CONTRIBUTE SIGNIFICANTLY TO THE GROWTH OF UNITED STATES-MEXICAN TRADE, TO MEXICAN EXPORTS IN PARTICULAR, AND THUS TO THE GOAL OF MEXICAN ECONOMIC DEVELOPMENT.

B) THE TRADE ACT PROVIDES THE AUTHORITY FOR THE UNITED STATES TO IMPLEMENT ITS GENERALIZED SYSTEM OF TARIFF PREFERENCES, WHICH WILL PERMIT DUTY-FREE ENTRY OF A VERY WIDE RANGE OF PRODUCTS OF BENEFICIARY DEVELOPING COUNTRIES. IN DEVELOPING THE LIST OF PRODUCTS WHICH WILL BE ELIGIBLE FOR GENERALIZED TARIFF PREFERENCES, THE UNITED STATES WORKED CLOSELY WITH THE COUNTRIES OF LATIN AMERICA, INCLUDING MEXICO, IN ORDER TO ASSURE THAT WHEREVER POSSIBLE, THE LIST INCLUDES PRODUCTS OF INTEREST TO THESE COUNTRIES. THE RECORD IN THIS AREA AMPLY DEMONSTRATES THE CLEAR CONCERN OF THE UNITED STATES FOR EFFECTIVELY PROMOTING THE ECONOMIES OF THE COUNTRIES OF LATIN AMERICA. THIS CONCERN WILL CONTINUE, AS WILL OUR RECORD OF CLOSE CONSULTATIONS IN THIS AREA, IN THE SPIRIT OF THE NEW DIALOGUE.

C) THE NEW LEGISLATION CONTAINS PROVISIONS WHICH COULD EXCLUDE CERTAIN CATEGORIES OF DEVELOPING COUNTRIES FROM PREFERENCES. THE ADMINISTRATION HAS CONSISTENTLY OPPOSED THESE CRITERIA AS BEING EXCESSIVELY RIGID. THE ADMINISTRATION IS CURRENTLY EXAMINING THE LEGISLATION TO DETERMINE WHAT LEEWAY IT MAY CONTAIN AND -- WILL WORK IN A SPIRIT OF COOPERATION WITH THE CONGRESS TO SEEK ANY NECESSARY ACCOMMODATIONS.

D) SECTION 502 (B) (2) OF THE TRADE ACT PROVIDES
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THAT THE PRESIDENT SHALL NOT DESIGNATE ANY COUNTRY A BENEFICIARY DEVELOPING COUNTRY--IF SUCH COUNTRY IS A MEMBER OF THE ORGANIZATION OF PETROLEUM EXPORTING COUNTRIES, OR A PARTY TO ANY OTHER ARRANGEMENT OF FOREIGN COUNTRIES, AND SUCH COUNTRY PARTICIPATES IN ANY ACTION PURSUANT TO SUCH ARRANGEMENT THE EFFECT OF WHICH IS TO WITHHOLD SUPPLIES OF VITAL COMMODITY RESOURCES FROM INTERNATIONAL TRADE OR TO RAISE THE PRICE OF SUCH COMMODITIES TO AN UNREASONABLE LEVEL AND TO CAUSE SERIOUS DISRUPTION OF THE WORLD ECONOMY. UNDER PRESENT CIRCUMSTANCES THIS PROVISION WOULD APPEAR TO APPLY ONLY TO OPEC MEMBER COUNTRIES. IT WOULD BE PREMATURE TO ASSUME

THAT THE EXCLUSIONARY CRITERIA WOULD APPLY TO ANY OTHER PARTICULAR ARRANGEMENT OF COUNTRIES. FURTHERMORE, THESE PROVISIONS OF THE TRADE ACT ARE NOT INCONSISTENT WITH THE REQUIREMENT OF THE OAS CHARTER THAT ALL OAS MEMBERS MAKE AN EFFORT TO ACHIEVE BASIC COMMODITY TRADE POLICIES WHICH PROVIDE "ADEQUATE AND DEPENDABLE SUPPLIES FOR CONSUMERS, AND STABLE PRICES THAT ARE BOTH RENUMERATIVE TO PRODUCERS AND FAIR TO CONSUMERS."

- E) WITH REGARD TO SECTION 502 (5) OF THE TRADE ACT, THE UNITED STATES GOVERNMENT NOTES THE LONG-STANDING COOPERATION BETWEEN OUR TWO COUNTRIES IN INTERNATIONAL NARCOTICS CONTROL. IT BELIEVES THAT OUR MUTUAL EFFORTS ARE PROGRESSIVELY REALIZING GREATER RESULTS AND LOOKS FORWARD TO THEIR FURTHER DEVELOPMENT ALONG LINES THAT HAVE PROVEN EFFECTIVE.

F) LIMITATIONS ARE ALSO SPECIFIED IN THE TRADE ACT REGARDING PRODUCT COVERAGE FOR TARIFF PREFERENCES. WHILE SOME PRODUCTS COVERED BY THESE LIMITATIONS ARE MANDATORILY EXCLUDED, OTHERS, INCLUDING THOSE REFERRED TO BY THE GOVERNMENT OF MEXICO (STEEL, GLASS, AND ELECTRONICS ARTICLES) ARE EXCLUDED ONLY IF THEY ARE DETERMINED TO BE IMPORT-SENSITIVE. THE UNITED STATES OFFERS ITS ASSURANCES THAT IT WILL, WHEREVER POSSIBLE, IMPLEMENT THE TARIFF PREFERENCE SYSTEM IN A MANNER MOST BENEFICIAL TO MEXICO AND THE OTHER COUNTRIES OF LATIN AMERICA.

G) THE AUTHORITY CONTAINED IN SECTION 504(A) WHICH LIMITED OFFICIAL USE
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PERMITS THE PRESIDENT TO WITHDRAW OR SUSPEND PREFERENTIAL TREATMENT AT ANY TIME IS A REFLECTION OF THE VOLUNTARY AND NON-BINDING NATURE OF GENERALIZED PREFERENCES. THIS AUTHORITY WILL BE APPLIED JUDICIOUSLY AND IN THE SPIRIT OF OUR UNDERTAKINGS WITH THE LATIN AMERICAN COUNTRIES.

H) ANOTHER PROVISION OF THE ACT SETS OUT A COMPETITIVE NEED FORMULA BY WHICH THE BENEFICIARY DEVELOPING COUNTRIES ARE OFFERED A PARTICULAR INCENTIVE TO DIVERSIFY THEIR EXPORT INDUSTRIES, AND THUS THEIR INDUSTRIAL BASE, WITHOUT FEAR THAT PREFERENCES ON THOSE PRODUCTS WILL BE DENIED OWING TO THE EXPORTS OF OTHER BENEFICIARY COUNTRIES. WE SEE DEFINITE DEVELOPMENT ADVANTAGES IN THIS FORMULA, AND BELIEVE THAT IT IS IN KEEPING WITH THE NEEDS OF THE DEVELOPING WORLD AS EXPRESSED IN VARIOUS INTERNATIONAL FORA. THE UNITED STATES GOVERNMENT DOES NOT SEE THIS PROVISION AS UNJUSTIFIED OR UNREASONABLE, BUT RATHER BELIEVES IT WILL PROVIDE BENEFITS TO ALL DEVELOPING COUNTRIES INCLUDING MEXICO.

I) OF EVEN GREATER POTENTIAL SIGNIFICANCE TO UNITED STATES-MEXICAN TRADE RELATIONS, HOWEVER, IS THE AUTHORIZATION PROVIDED IN THE TRADE ACT OF 1974 FOR THE UNITED STATES TO ENTER INTO THE CURRENT ROUND OF MULTILATERAL TRADE NEGOTIATIONS. WE BELIEVE THAT THESE NEGOTIATIONS WILL OFFER THE OPPORTUNITY FOR ACHIEVING BOUND TARIFF REDUCTIONS, AND LASTING REDUCTIONS IN NONTARIFF BARRIERS TO TRADE WHICH ARE OF GREAT IMPORTANCE TO BOTH THE UNITED STATES AND MEXICO. IN THIS REGARD (SECTION 106) OF THE TRADE ACT SETS AS A NEGOTIATING OBJECTIVE OF THE UNITED STATES TRADE AGREEMENTS WHICH PROMOTE THE ECONOMIC GROWTH OF BOTH DEVELOPING COUNTRIES AND THE UNITED STATES. THE UNITED STATES REMAINS COMMITTED TO THE TOKYO DECLARATION AND DOES NOT EXPECT DEVELOPING COUNTRIES TO MAKE CONTRIBUTIONS TO NEGOTIATIONS THAT ARE INCONSISTENT WITH THEIR INDIVIDUAL DEVELOPMENT, FINANCIAL AND TRADE NEEDS AND THEY

WILL NOT DEMAND FULL RECIPROCITY. THE UNITED STATES RECOGNIZES THAT A FACTOR IN PROMOTING THE ECONOMIC DEVELOPMENT AND PROVIDING MARKET OPPORTUNITIES FOR DEVELOPED COUNTRIES IS TRADE CONCESSIONS WHICH CONTRIBUTE TO THE LIMITED OFFICIAL USE
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ECONOMIC DEVELOPMENT OF DEVELOPING COUNTRIES.

J) THE GOVERNMENT OF THE UNITED STATES LOOKS FORWARD TO THE OPPORTUNITY OF EVEN CLOSER RELATIONS WITH THE GOVERNMENT OF MEXICO TO OUR MUTUAL BENEFIT. THE UNITED STATES PLANS TO CALL, WHEREVER POSSIBLE, FOR PRIOR CONSULTATIONS WHEN CONTEMPLATING THE ADOPTION OF MEASURES WHICH MIGHT AFFECT THE NORMAL FLOW OF EXPORTS FROM MEXICO TO THE UNITED STATES. WE RECOGNIZE THAT MUTUAL CONSULTATION IS A PREREQUISITE TO IMPROVING TRADE RELATIONS.

2. THE EMBASSY IS ALSO REQUESTED TO TRANSMIT THE FOLLOWING RESPONSE TO THE SECOND AIDE MEMOIRE:

A) QUOTE: I REFER TO THE AIDE MEMOIRE OF THE GOVERNMENT OF MEXICO ENTITLED "EXAMINATION OF THE RELEVANT PROVISIONS OF INTERNATIONAL INSTRUMENTS RELATED TO THE OBJECTIVES AND TERMS OF THE TRADE ACT OF 1974;" THE FOLLOWING EXPLAINS THE POSITION OF THE UNITED STATES WITH REGARD TO THE TRADE ACT IN LIGHT OF THE COMMITMENTS REPRESENTED BY THOSE INTERNATIONAL INSTRUMENTS.

B) WHILE THE EXECUTIVE BRANCH OF THE UNITED STATES GOVERNMENT HAS EXPRESSED ITS REGRET THAT THE TRADE ACT INCLUDES CONDITIONS ON THE EXTENSION OF PREFERENCES TO OPEC COUNTRIES AND PROVIDES FOR THE INELIGIBILITY FOR PREFERENCES IN CERTAIN OTHER CIRCUMSTANCES, THE UNITED STATES GOVERNMENT CANNOT ACCEPT THE CONTENTION THAT THESE CON-

DITIONS ARE, OR WHEN IMPLEMENTED WILL BEIN VIOLATION OF U.S. OBLIGATIONS UNDER THE VARIOUS INTERNATIONAL INSTRUMENTS MENTIONED IN THE MEMORANDUM OF THE GOVERNMENT OF MEXICO. (OUR SYSTEM HAS NOT YET BEEN IMPLEMENTED, AND THUS CANNOT BE SAID AT THE PRESENT TIME TO HAVE VIOLATED ANY PROVISIONS OF ANY INTERNATIONAL INSTRUMENTS.)

C) EVEN ON A THEORETICAL BASIS, HOWEVER, WE DO NOT BELIEVE THESE CONDITIONS ARE INCONSISTENT WITH UNGA RESOLUTION 2625 (THE FRIENDLY RELATIONS DECLARATION) OR THE SIMILAR PROVISION (ARTICLE 19) OF THE CHARTER OF THE OAS. THE EXTENSION OF TRADE PREFERENCES WHICH ARE VOLUNTARY AND NON-BINDING, LIKE ASSISTANCE BETWEEN NATIONS, LIMITED OFFICIAL USE
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DEPENDS ON A HIGH DEGREE OF MUTUALITY. WE DO NOT BELIEVE THAT THE FAILURE TO GRANT TRADE PREFERENCES, IRRESPECTIVE OF ANY OTHER CONSIDERATION, CONSTITUTES COERCION UNDER THE O

OAS CHARTER OR THE FRIENDLY RELATIONS DECLARATION. THE GOVERNMENT OF MEXICO MAY RECALL THAT IN THE GATT WAIVER AUTHORIZING A GENERALIZED SYSTEM OF PREFERENCES, THE UNITED STATES AND THE OTHER DEVELOPED COUNTRIES AGREED THAT GENERALIZED TARIFF PREFERENCES WERE VOLUNTARY ON THE PART OF ANY COUNTRY GRANTING THEM AND DID NOT CONSTITUTE A BINDING COMMITMENT. IN OUR VIEW NO COUNTRY, WHETHER A GATT CONTRACTING PARTY OR NOT, HAS A RIGHT UNDER INTERNATIONAL LAW TO BE AWARDED GENERALIZED PREFERENCES. WE INTERPRET NEITHER RESOLUTION 2625 NOR ARTICLE 19 AS DENYING THE SOVEREIGN RIGHT OF THE GOVERNMENT OF THE UNITED STATES, THROUGH ITS CONSTITUTED CONGRESSIONAL AND EXECUTIVE AUTHORITIES, TO ESTABLISH CRITERIA FOR PREFERENTIAL ACCESS TO U.S. MARKETS. WE OF COURSE WOULD NOT CONTEST A COUNTRY'S RIGHT TO REFUSE TO ACCEPT GSP BUT WOULD NATURALLY ALSO RESERVE THE RIGHT AS TO ITS IMPLEMENTATION WITH REGARD TO OTHER COUNTRIES IN CONFORMITY WITH OUR LEGISLATION.

D) SIMILARLY, THE UNITED STATES SUPPORTS FULLY THE PRINCIPLES SET OUT IN THE DECLARATION OF MINISTERS APPROVED IN TOKYO ON SEPTEMBER 14, 1973, INCLUDING THE STATEMENT THAT "THE DEVELOPED COUNTRIES DO NOT EXPECT RECIPROCITY FOR COMMITMENTS MADE BY THEM IN THE NEGOTIATIONS TO REDUCE OR REMOVE TARIFF AND OTHER BARRIERS TO THE TRADE OF DEVELOPING COUNTRIES, I.E., THE DEVELOPED COUNTRIES DO NOT EXPECT THE DEVELOPING COUNTRIES, IN THE COURSE OF THE TRADE NEGOTIATIONS, TO MAKE CONTRIBUTIONS WHICH ARE INCONSISTENT WITH THEIR INDIVIDUAL DEVELOPMENT, FINANCIAL AND TRADE NEEDS." IN OUR VIEW THERE ARE NO PROVISIONS IN THE TRADE ACT INCONSISTENT WITH THIS

STATEMENT.

E) WITH RESPECT TO ARTICLES 32, 34, 37 AND 38 OF THE
OAS CHARTER (THE U.S. DOES NOT SEE THE RELEVANCE OF
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ARTICLE 41 TO THE ISSUES RAISED HEREIN) THE UNITED STATES
OBSERVES THAT ALL OF THOSE PROVISIONS ENVISION A SPIRIT
OF COOPERATION AND MUTUALITY (ALTHOUGH NOT RECIPRO-
CITY) IN SEEKING TO ACHIEVE COMMON ECONOMIC GOALS- IN
FACT, TH THRUST OF THE TRADE ACT IS FULLY CONSISTENT
WITH THE OBJECTIVES OF ARTICLES 37(A) AND 38. THE
UNITED STATES BELIEVES THAT THESE ARTICLES AS WELL AS
ALL OTHER ARTICLES OF THE CHARTER MUST BE OBSERVED BY
ALL OF THE MEMBER COUNTRIES, NOT SIMPLY BY THE UNITED
STATES.

F) WE NOTE THAT THIS SPIRIT OF MUTUALITY AND COOPERA-
TION IS EXPLICITLY REFERRED TO IN ARTICLE 32. ARTICLE 34
CALLS UPON THE MEMBER STATES TO "MAKE EVERY EFFORT TO
AVOID POLICIES, ACTIONS OR MEASURES THAT HAVE SERIOUS
ADVERSE EFFECTS ON THE ECONOMIC OR SOCIAL DEVELOPMENT
OF THE MEMBER COUNTRIES." ARTICLE 37 PROVIDES IN PART
THAT THE MEMBER STATES "SHOULD MAKE INDIVIDUAL AND UNITED
EFFORTS TO BRING ABOUT...MAINTENANCE OF CONTINUITY IN
THEIR ECONOMIC AND SOCIAL DEVELOPMENT BY MEANS OF...
ADEQUATE AND DEPENDABLE SUPPLIES FOR CONSUMERS, AND
STABLE PRICES WHICH ARE BOTH RENUMERATIVE TO PRODUCERS
AND FAIR TO CONSUMERS." WITH RESPECT TO ARTICLE 38, THE
COMMENTS MADE CONCERNING THE TOKYO DECLARATION ARE
EQUALLY APPLICABLE. THE U.S. REITERATES THAT IT HAS
NEVER SOUGHT RECIPROCAL TREATMENT AS A CONDITION OF
GRANTING PREFERENCE. WE DO BELIEVE, HOWEVER, THAT WE
HAVE A RIGHT TO EXPECT FAIR AND EQUITABLE TREATMENT
FROM RECIPIENT COUNTRIES, CONSISTENT WITH THE SPIRIT OF
MUTUALITY AND COOPERATION REFLECTED IN THE OAS CHARTER.
IT IS THE BELIEF OF THE UNITED STATES THAT NO COUNTRY
THAT IS COMPLYING FULLY WITH THE LETTER AND SPIRIT OF ITS
COMMITMENTS UNDER CHAPTER VII OF THE OAS CHARTER WOULD
BE INELIGIBLE FOR GSP UNDER SECTION 502 OF THE TRADE ACT.

G) WITH RESPECT TO THE CHARTER OF ECONOMIC RIGHTS
AND DUTIES, THE GOVERNMENT OF MEXICO IS AWARE THAT THE
EFFORTS OF THE UNITED STATES AND CERTAIN OTHER COUNTRIES
TO REACH AGREEMENT ON MUTUALLY ACCEPTABLE LANGUAGE FOR
ARTICLE 2 OF THE CHARTER WERE NOT SUCCESSFUL AND THAT,
CONSEQUENTLY, THE UNITED STATES WAS NOT ABLE TO SUPPORT
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THE TEXT OF ARTICLE 2. NOR COULD WE SUPPORT THE TEXT OF ARTICLE 5. THE UNITED STATES GOVERNMENT SYMPATHIZED WITH THE GENERAL CONCEPT OF FORMULATING A CHARTER OF ECONOMIC RIGHTS AND DUTIES, AND IS IN AGREEMENT WITH MANY OF THE PROVISIONS OF THE PRESENT CHARTER BUT DOES NOT CONSIDER ITSELF LEGALLY BOUND BY IT, ESPECIALLY BY THOSE ARTICLES THAT IT DID NOT SUPPORT BECAUSE THEY WERE IN CONFLICT WITH ITS OWN NATIONAL INTERESTS AND WITH INTERNATIONAL LAW.

H) THE GOVERNMENT OF THE UNITED STATES WISHES TO EMPHASIZE THAT THE COMMENTS OF FOREIGN GOVERNMENTS WILL BE TAKEN INTO ACCOUNT IN DECIDING BOTH THE GENERAL AND SPECIFIC QUESTIONS WITH RESPECT TO THE IMPLEMENTATION OF THE TARIFF PREFERENCE SYSTEM. UNQUOTE. KISSINGER

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